

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION

LARRY ARNOLD YOUNG,

Movant,

v.

CIVIL ACTION NO. 1:06-0347
(Criminal Action No. 1:88-0112)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION

Pending before the court is movant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence By a Person in Federal Custody. (Doc. No. 268.) By standing order filed in this case on May 12, 2006, this matter was referred to Magistrate Judge R. Clarke VanDervort for submission of proposed findings of fact and a recommendation for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). (Doc. No. 270.) Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation ("PF & R") on April 3, 2009, and recommended that this court dismiss the instant § 2255 motion as successive, grant respondent's motion to dismiss, and remove this matter from the court's active docket. (Doc. No. 325.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's PF & R. Pursuant to § 636(b)(1)(C), the court need not conduct a *de novo*

review of the PF & R when a party "makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982).

Movant submitted timely objections to the PF & R on April 13, 2009. (Doc. No. 327.) The only argument movant makes responsive to Magistrate Judge VanDervort's reasoning, however, is just such a conclusory objection: "My motion containes [sic] nothing to suggest that it is or should in any way be construed as a second or successing [sic] § 2255 motion as defined in the analysis on pages 6 thru 8." (Doc. No. 327 at 1-2.) Accordingly, the court hereby **OVERRULES** movant's objections, **ADOPTS** the findings and conclusions contained in Magistrate Judge VanDervort's PF & R (Doc. No. 325), **GRANTS** respondent's motion to dismiss (Doc. No. 299), and, in an accompanying judgment order, **DISMISSES** movant's Motion Under 28 U.S.C. § 2255 (Doc. No. 268).

The Clerk is **DIRECTED** to remove this matter from the court's active docket and to forward a copy of this Memorandum Opinion to all counsel of record and to movant, pro se.

It is **SO ORDERED** this 1st day of July, 2009.

ENTER:



David A. Faber

Senior United States District Judge